

1 ARLENE P. MESSINGER  
2 Assistant General Counsel for SBIC Enforcement  
3 U.S. Small Business Administration  
4 Receiver for Prospero Ventures, L.P.  
5 409 Third Street, S.W., 7<sup>th</sup> Floor  
Washington, DC 20416  
Telephone: (202) 205-6857  
Facsimile: (202) 481-0325

5 DARRYL J. HOROWITT #100898  
6 PHILIP J. NORGAARD #80477  
COLEMAN & HOROWITT, LLP  
7 Attorneys at Law  
499 West Shaw, Suite 116  
8 Fresno, California 93704  
Telephone: (559) 248-4820  
9 Facsimile: (559) 248-4830

10 Attorneys for Plaintiff,  
U.S. SMALL BUSINESS ADMINISTRATION,  
11 as Receiver for PROSPERO VENTURES, L.P.

12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14

15 U.S. SMALL BUSINESS  
16 ADMINISTRATION, as Receiver for  
PROSPERO VENTURES, L.P.,

17 Plaintiff,

18 v.

19 DONALD K. EMERY,

20 Defendant.

NO. C 07-03741 VRW

Related Cases:  
C07-03739-VRW (Closed); C07-03737-  
VRW (Closed); C07-03732-VRW  
(Closed); C07-03736-VRW (Closed);  
C07-03738-VRW (Closed).

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22  
23 STIPULATION TO CONTINUE  
24 HEARING AND ~~PROPOSED~~  
25 ORDER THEREON

26 This stipulation is entered into by and between plaintiff, U.S. SMALL BUSINESS  
27 ADMINISTRATION, as Receiver for PROSPERO VENTURES, L.P., and defendant, DONALD  
28 K. EMERY, on the following recitals, terms, and agreements:

*U.S. Small Business Administration,  
as Receiver for Prospero Ventures, L.P.  
v. Donald K. Emery  
Case No.C 07-03741 VWS*

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## RECITALS

This stipulation is entered into with the following facts taken into consideration:

- A. Plaintiff filed the above-captioned action on July 19, 2007.
  - B. Plaintiff thereafter served the complaint on defendant on August 13, 2007.
  - C. Defendant filed an answer on October 19, 2007.
  - D. The Court scheduled a hearing on Plaintiff's Motion to Strike Affirmative

Defenses, or in the alternative, Motion for Judgment on the Pleading and Defendant's Motion to Amend Response to Complaint for November 6, 2008 at 2:30 P.M.

- E. On November 4, 2008, Defendant submitted a financial disclosure form to the SBA and the parties are working toward a settlement of the case.

- F. In order to permit the parties time to negotiate, the parties request a continuance of the November 6, 2008 hearing for a period not to exceed 60 days.

## STIPULATION

With the above facts taken into consideration, the adequacy and sufficiency of which are hereby acknowledged, the parties do hereby stipulate and agree as follows:

1. The hearing on Plaintiff's Motion to Strike Affirmative Defenses, or in the alternative, Motion for Judgment on the Pleading and Defendant's Motion to Amend Response to Complaint shall be continued for a period of time not to exceed 60 days.
  2. All other dates previously calendared shall remain in effect; and,
  3. This stipulation may be executed in counterparts and a facsimile and/or electronic signature shall be considered as valid as an original.

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*U.S. Small Business Administration,  
as Receiver for Prospero Ventures, L.P.  
v. Donald K. Emery  
Case No.C 07-03741 VWS*

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Dated: November 5, 2008

COLEMAN & HOROWITT, LLP

By: /s/ Darryl J. Horowitz  
DARRYL J. HOROWITZ  
Attorneys for Plaintiff

Dated: November 5, 2008

DONOGHUE, BARRETT & SINGAL, P.C.

By: /s/ Bruce A. Singal  
BRUCE A. SINGAL  
Attorney for Defendant

## ORDER

The parties having so stipulated and good cause appearing therefore,

2:30

IT IS HEREBY ordered the hearing scheduled for November 6, 2008, at ~~3:00~~ p.m. on plaintiff's motion to strike affirmative defenses or judgment on the pleadings and defendant's motion to amend its answer are continued until January 8, 2009, at ~~3:00~~ p.m.

Dated: November 6, 2008

